

CHRISTOPHERS et al
Appl. No. 09/833,799
August 17, 2004

REMARKS/ARGUMENTS

Reconsideration of this application and entry of the foregoing amendments are respectfully requested.

The claims have been revised to define the invention with additional clarity. The claims as presented are fully supported by an enabling disclosure, including the claims as originally filed. That the claims have been revised should not be construed as an indication that Applicants agree with any view expressed by the Examiner. Rather, the revisions are made merely to advance prosecution and Applicants reserve the right to pursue any deleted subject matter in a continuation application.

Specifically, claims 26-29, 31, 34 and 36 have been revised to indicate that the nucleic acid is a cDNA. Support for this revision is found, for example, in Figures 13-16 and in the descriptions thereof at page 13.¹ Claims 26, 28, 29, 34 and 35 have been revised so as to make it additionally clear that the "fragment" has inhibitory activity.

Claims 26-36 stand rejected under 35 USC 112, first paragraph, as allegedly lacking written description. Withdrawal of the rejection is submitted to be in order in view of the above-noted claim revisions and further in view of the comments that follow.

The claims have been amended in a manner that is believed to address various of the Examiner's concerns. Specifically, claims 26-34 and 36 as now presented make

¹ The Examiner's attention is directed to the fact that claim 27 (which depends from claim 26) is very similar to Example 8 of the Written Description Guidelines and the written description requirement is clearly met for the reasons articulated there.

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reference to a "cDNA", thereby avoiding the Examiner's concern relating to allegedly undisclosed genomic sequences.

As regards the Examiner's contention that the disclosure fails to include a description of "fragments" that possess inhibitory activity, Applicants respectfully disagree.

At the outset, attention is directed to the fact that the claimed genuses are relatively small. The amino acid sequence of formula I is only 57 residues in length. That Applicants had possession of the entirety of that sequence, as well as active fragments, is clear from the disclosure and claims as originally filed. In this regard, the Examiner's attention is again directed to pages 25 and 26 of the application which disclose sequences of varying length that have inhibitory activity. Despite the acknowledgment on page 26 that "the 1-19, 1-6 and 1-4 sequences of Components A, B and C respectively were determined with less certainty than the following part of the sequence", it is nonetheless apparent that Applicants had full possession of "fragments" of the sequence of formula I having inhibitory activity. By way of example, Component E, the sequence of which is given on page 26 as well as on page 2, is indicated as being a fragment having inhibitory activity. Portions of the sequence of Component E are also present in other of the Components defined on pages 25 and 26.

Given the relatively small size of the claimed genuses and the specific species disclosed, it is submitted that the written description requirement is met and reconsideration is requested.

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Claims 26-35 stand rejected under 35 USC 102(e) as allegedly being anticipated by Remold O'Donnell. Withdrawal of the rejection is submitted to be in order in view of the above-noted claim revisions. Reconsideration is requested.

Claims 34 and 35 stand rejected under 35 USC 102(b) as allegedly being anticipated by the New England Biolabs Catalog. Withdrawal of the rejection is submitted to be in order in view of the fact that the claims have been revised in accordance with the Examiner's suggestion. Reconsideration is requested.

This application is submitted to be in condition for allowance and a Notice to that effect is requested.

Respectfully submitted,

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